



STATE OF MICHIGAN
EXECUTIVE OFFICE
LANSING

RICK SNYDER
GOVERNOR

BRIAN CALLEY
LT. GOVERNOR

January 30, 2014

DeAndre Windom, Mayor
City of Highland Park
12050 Woodward Avenue
Highland Park, Michigan 48203-3578

Highland Park City Council
12050 Woodward Avenue
Highland Park, Michigan 48203-3578

Dear Mayor Windom and Highland Park City Councilmembers:

Public Act 436 of 2012, the Local Financial Stability and Choice Act, requires that I, as Governor, reach one of the following two conclusions within 10 days of receiving a financial review team report:

- (a) A financial emergency does not exist within the local government.
- (b) A financial emergency exists within the local government.

I have reviewed in detail the report submitted to me on January 24, 2014, by the City of Highland Park Financial Review Team. I agree with the conclusion of the report, which was that a financial emergency exists within the City of Highland Park.

Therefore, I wish to inform you that, pursuant to Section 6(1)(b) of the Local Financial Stability and Choice Act, I have determined that a local government financial emergency exists within the City of Highland Park.

Findings of Fact

Section 6(2) of the Act requires that, upon a determination by me of a financial emergency, I provide you with findings of fact utilized as the basis upon which this determination was made, and a concise and explicit statement of the underlying facts supporting the factual findings.

Preliminary Review

On September 9, 2013, the Michigan Department of Treasury commenced a preliminary review of the finances of the City of Highland Park to determine whether or not probable financial stress existed. Section 4(1) of the Act permits a preliminary review to be conducted if one, or more, of

the conditions enumerated therein occurs. The preliminary review of the City resulted from the conditions enumerated in subdivisions (d), (j), (n), (p), and (s) of Section 4(1) having occurred within the City.¹ The preliminary review found, or confirmed, the following:

- City officials engaged in expenditures in violation of Sections 17 through 20 of Public Act 2 of 1968, the Uniform Budgeting and Accounting Act. For the City's 2012 fiscal year, there were unbudgeted expenditures in several funds. For example, the Federal Grants Fund had unbudgeted expenditures of \$3.5 million. The General Fund had \$491,161 in unbudgeted expenditures in the form of a transfer to the Water and Sewer Fund to supplement its operations. However, when considered as a whole, total General Fund expenditures were actually under budget by \$1.2 million.
- City officials failed to comply with a five-year deficit elimination plan filed with the Michigan Department of Treasury in 2009. Except for fiscal year 2011, each fiscal year of the City since the plan was filed ended with a higher deficit than for the preceding year. Furthermore, the Department deemed unacceptable the deficit elimination plan most recently filed by City officials because of the conclusion that the plan would not eliminate the existing deficit within five years.
- The City ended its fiscal year in a deficit condition in one or more funds since at least 2008. For the 2012 fiscal year, entity-wide governmental activities had a deficit of \$46.8 million in unrestricted net assets and \$16.4 million in total net assets. The business-type activities had a deficit of \$5.4 million in unrestricted net assets and \$2.2 million in total net assets. There also were deficits in the Federal Grants Fund (\$210,976), the Neighborhood Stabilization Program 1 Fund (\$116,608), the Community Development Block Grant Fund (\$146,097), and the Water and Sewer Fund (\$5.5 million).

¹ Subdivision (d) provides that "[t]he state financial authority receives written notification that a local government has not timely deposited its minimum obligation payment to the local government pension fund as required by law." Subdivision (j) provides that "[t]he local government has violated a requirement of sections 17 to 20 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.437 to 141.440." Subdivision (n) provides that "[t]he local government is in breach of its obligations under a deficit elimination plan or an agreement entered into pursuant to a deficit elimination plan. Subdivision (p) provides that "[t]he municipal government has ended a fiscal year in a deficit condition as defined in section 21 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.921, or has failed to comply with the requirements of that section for filing or instituting a financial plan to correct the deficit condition." Subdivision (s) provides that "[t]he existence of other facts or circumstances that, in the state treasurer's sole discretion for a municipal government, are indicative of probable financial stress or that, in the state treasurer's or superintendent of public instruction's sole discretion for a school district, are indicative of probable financial stress."

- City officials engaged in significant inter-fund borrowing. The largest amounts from fiscal year 2012 were \$463,771 that City officials borrowed from the General Fund for deposit into the 08 Pension Bond Debt Fund; \$534,445 that City officials borrowed from the Tax Increment Finance Authority Fund for deposit in the General Fund; and \$69,102 that City officials borrowed from the Federal Account Fund for deposit into the General Fund.
- As of June 18, 2013, the City had more than \$48.5 million in long-term debt and another \$44.8 million in unfunded pension and other postemployment benefits, for a total of \$93.3 million. Of the \$48.5 million in long-term debt, governmental activities totaled roughly \$39.1 million and business-type activities accounted for the remaining \$9.4 million. A portion of the foregoing debt related to unfunded pension obligations is funded through a voter-approved, extra voted millage.
- City officials failed to make the actuarially required contribution for the General Employees Retirement Plan and Public Safety Retirement Plan, thereby increasing its pension obligation by \$159,232 and \$357,488 respectively for the 2012 fiscal year. In addition, City officials set aside proceeds from \$27.0 million in pension bonds issued in 2008 to pay the current payroll contributions for two City retirement plans: the General Employees Retirement Plan and the former Municipal Employees Retirement System. City officials indicated having approximately \$9.0 million remaining, and estimated this remaining amount likely would be depleted within two to three years. City officials had not determined what resources would be available to fund retirement payments after that time.
- As of June 30, 2012, City officials had failed to fully make annual required contributions for other post-employment benefits. At the end of its 2012 fiscal year, its unfunded liability was \$26.1 million. The total cost for the 2012 fiscal year was \$2.2 million, of which only \$1.4 million was paid. The 2013 fiscal year cost was anticipated to be similar to that of the preceding fiscal year. However, City officials only had paid approximately \$1 million for current retirees.

On October 9, 2013, the State Treasurer submitted the foregoing preliminary review to the Local Emergency Financial Assistance Loan Board. On October 23, 2013, the Local Emergency Financial Assistance Loan Board determined that probable financial stress existed for the City.

On December 2, 2013, I appointed a five-member Financial Review Team. The Review Team convened on December 5th, 16th, 17th, 2013, and January 14th, 2014.

Review Team Findings

The Review Team found, or confirmed, the existence of the following conditions based upon information provided by City officials, or the City's financial audit, or other relevant sources:

- According to the City's 2013 fiscal year financial audit, the ending balance in the General Fund decreased slightly from \$2.99 million as of June 30, 2012, to \$2.78 million as of June 30, 2013. Although General Fund revenues exceeded expenditures by \$564,329, this was more than offset by a transfer of \$771,279 from the General Fund to the Water and Sewer Fund, thereby continuing a concerning pattern of the former subsidizing the latter.
- According to the City's 2013 fiscal year financial audit, the ending balance in the Water and Sewer Fund increased from a negative \$5.5 million as June 30, 2012, to a negative \$12.5 million as of June 30, 2013. This 125.6 percent increase in the negative fund balance was attributable to a \$7.7 million operating loss during the 2013 fiscal year which was offset slightly by the previously mentioned transfer of \$771,279 from the General Fund.
- As of October 31, 2013, the City owed approximately \$19.5 million in total accounts payable to various vendors. This total included an estimated \$18.2 million owed to the City of Detroit for water and sewer services; \$311,380 owed to DTE Energy; \$142,265 owed to Wayne County for property assessing; \$125,370 owed to Wayne County for prisoner maintenance; \$105,667 owed to the City of Hamtramck for municipal income tax collection and administration; and \$101,284 owed to the State of Michigan for principal and interest upon outstanding emergency loans. In fact, according to information provided by City officials, accounts payable increased by \$756,587 during the one-month period of September 30, 2013 to October 31, 2013, due primarily to water and sewer services provided by the City of Detroit.
- On November 22, 2013, the City of Detroit, through its Water and Sewer Department, filed a lawsuit in United States District Court (Eastern District) against the City of Highland Park for an estimated \$17.7 million in delinquent accounts payable (i.e., \$16.9 million for unpaid sewer service and \$805,000 for unpaid water service). On December 30, 2013, the Court dismissed the majority of the lawsuit upon subject-matter jurisdiction grounds (i.e., that the lawsuit should have been filed in State court rather than in federal court).
- On December 12, 2013, Fifth Third Bank served written notice upon City officials that failure by them to timely pay the City of Detroit for water and sewer services, which resulted in the above-mentioned lawsuit by the City of Detroit, constituted an "event of default" upon a letter of credit extended by the Bank. The written notice also indicated that the Bank would, beginning in January 2014, deny City officials access to bond proceeds on deposit with the Bank that City officials had utilized to remit certain pension obligations.
- City officials have been consistently unable to issue timely and accurate bills to residential and commercial users of water and sewer services, in some instances for up to two years. According to City officials, there are in the City approximately 4,000 meters and approximately 3,000 water and sewer active accounts, of which some 367 are business or commercial accounts. One City official expressed the belief that up to 80 percent of the water and sewer accounts were delinquent, either because the City had not issued a bill or because the user had received a bill, but had not remitted the amount due.

- The City's 2013 fiscal year financial audit raised a specific doubt about the ongoing financial viability of the City. Noting that the City "has a significant net deficit in the Water and Sewer Fund at June 30, 2013," the financial audit stated that "[t]his condition raises substantial doubt the City's ability to continue as a going concern."
- During the 2013 fiscal year, City officials engaged in expenditures in violation of Sections 17 through 20 of Public Act 2 of 1968, the Uniform Budgeting and Accounting Act.

Conclusion

Based upon the foregoing information, the Review Team confirmed the findings of the preliminary review, the determination of the Local Emergency Financial Assistance Loan Board, and concluded that a financial emergency existed within the City. After thoroughly reviewing the report of the Review Team, I concur with their conclusion. Therefore, pursuant to Section 6(1)(b) of the Act, I have determined that a local government financial emergency exists within the City of Highland Park.

Notice of Hearing

Pursuant to Section 6(2) of the Local Financial Stability and Choice Act, the chief administrative officer or governing body may within 7 days request a hearing upon the determination of a financial emergency. The deadline for requesting a hearing is 5:00 P.M., Thursday February 6, 2014. In the event that a hearing is requested, it will be convened on Tuesday February 11, 2014, at 10:30 A.M., at the Richard H. Austin (Treasury) Building before State Treasurer R. Kevin Clinton, or his designee.

It should be noted that the hearing would not be an original fact finding proceeding. Its purpose would be to afford City officials an opportunity to indicate whether the findings of the Review Team report were supported by competent, material, and substantial evidence on the whole record. Therefore, any information which City officials may wish to present that was not available to the Review Team, or that concerns actions taken by City officials since the Review Team filed its report, or that concerns actions City officials anticipate taking in the future to address the financial emergency in the City, will be considered beyond the scope of the hearing.

Sincerely,



Rick Snyder
Governor